

June 19, 2009

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
June 19, 2009

I. OPENING OF MEETING AT 11:00 A.M. AT 160 NORTH LASALLE STREET,
CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman (via telephone); Raymond W. Ewell, Betty A. Bukraba, and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (via telephone); Jan Oncken, Illinois Department of Central Management Services, Bill Lipsmire, Illinois Department of Central Management Services (via telephone); Michael Fries, Illinois Gaming Board; Michael McRaith and Tim Cena, Illinois Department of Insurance; and Richard DiDomenico, Illinois Department of Financial and Professional Regulation.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD MAY 15, 2009

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD MAY 15, 2009.

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	159.....	9
Agriculture	434.....	17
Arts Council.....	21.....	2
Capitol Development Board	44.....	0
Central Management Services	1,483.....	119
Children and Family Services	3,128.....	49
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	434.....	69
Commerce Commission.....	72.....	0
Corrections.....	11,554.....	116
Criminal Justice Authority	56.....	6
Deaf and Hard of Hearing Comm.	7.....	1
Developmental Disabilities Council	11.....	1
Emergency Management Agency	95.....	6
Employment Security.....	1,797.....	25
Environmental Protection Agency	962.....	19
Financial & Professional Regulation	741.....	50
Guardianship and Advocacy	106.....	8
Healthcare and Family Services.....	2,416.....	28
Historic Preservation Agency	189.....	12
Human Rights Commission	14.....	2
Human Rights Department	147.....	10
Human Services	14,154.....	77
Investment Board.....	3.....	2
Juvenile Justice	1,176.....	20
Labor.....	80.....	7
Labor Relations Board Educational	12.....	2
Labor Relations Board State	19.....	2
Law Enforcement Training & Standards Bd.....	21.....	1
Medical District Commission	2.....	0
Military Affairs	126.....	3
Natural Resources	1,325.....	24
Pollution Control Board.....	19.....	2
Prisoner Review Board	20.....	0
Property Tax Appeal Board	24.....	1
Public Health.....	1,138.....	44
Revenue	2,101.....	70
State Fire Marshal.....	145.....	13
State Police	1,399.....	6
State Police Merit Board.....	6.....	1
State Retirement Systems	80.....	2
Transportation.....	2,374.....	0
Veterans' Affairs.....	1,136.....	7
Workers' Compensation Commission	171.....	10
TOTALS	49,405.....	843

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 - 1. The Governor, or
 - 2. A departmental director or assistant director appointed by the Governor, or
 - 3. A board or commission appointed by the Governor, or
 - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.

- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board, or commission.
 - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

* * *

C. Requests for 4d(3) Exemption

- Regarding Item C1, Executive Director Daniel Stralka reported that the agency withdrew this request.
- As to Item C2, Executive Director Daniel Stralka reported that this request is for the Legislative Director position with the Department of Insurance, a position that reports to the Director. The Department of Insurance was previously an independent state agency until it was folded into the Department of Financial and Professional Regulation five years ago. The Department of Insurance has now been returned to its former status as an independent agency as of June 1, 2009. This position has principal policy responsibility for planning, developing, and managing the agency's legislative program through its Legislative Affairs office. This includes the authority to act in the capacity of the Director and bind the agency to courses of action with regard to its legislative initiatives. For these reasons, staff recommended approval. In communications with agency representatives, staff indicated it would make this recommendation only if the agency were to abolish or agree to the rescission of a current legislative liaison position with overlapping responsibilities. The agency has agreed to the rescission of this position's exemption and it will appear on next month's agenda.

Michael McRaith, Director of the Department of Insurance, was present to respond to any questions from the Commissioners. He responded affirmatively to Chairman Chris Kolker's inquiry whether the position was vacant. McRaith also noted that additional requests may be forthcoming related to the return of the Department of Insurance as an independent agency.

- As to Item D, Executive Director Stralka reported that this request is for the Chief Financial Officer position for the Illinois Gaming Board, a position that reports to the Administrator. The Administrator of the Illinois Gaming Board is the equivalent of an agency director with commensurate responsibilities and authority. By Executive Order #5, the Illinois Gaming Board and the Illinois Racing Board are to assume control over their administrative functions as of July 1, 2009 excepting those retained by the Shared Services Center. This position has principal policy responsibility for all fiscal operations of the Illinois Gaming Board including budget and purchasing. For these reasons, staff recommended approval of this request. Executive Director Stralka also noted he was informed that it is not anticipated that the Illinois Racing Board will be submitting a similar request as it has designated a coded position to perform these functions.

Michael Fries, Chief Counsel for the Illinois Gaming Board, was present to respond to any questions from the Commissioners. Chairman Chris Kolker requested a confirmation that the Administrator is the equivalent of an agency director. Fries confirmed this, indicating that the Illinois Gaming Board's enabling statute explicitly sets forth the equivalency. Fries also confirmed that there is no incumbent in the position.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 4-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

C2. Illinois Department of Financial and Professional Regulation

Position Number	40070-14-02-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Department of Insurance / Legislative Affairs
Functional Title	Legislative Director
Incumbent	Vacant
Supervisor	Director
Location	Sangamon County

D. Illinois Department of Revenue

Position Number	40070-25-60-300-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Finance & Budget Office
Functional Title	Chief Fiscal Officer / Purchasing Officer
Incumbent	Vacant
Supervisor	Administrator, Illinois Gaming Board
Location	Sangamon County

E. Report on potential impact of SB0051

Executive Director Daniel Stralka reported that Senate Bill 51 had passed the legislature. This bill would effectively revamp the State's purchasing process and place both principal policy development and implementation under the control of new positions created by the legislation. By doing so, it may negatively impact the continued exemption of many positions which were previously granted 4d(3) exemption based on these responsibilities. Executive Director Stralka performed a brief audit of agency positions and identified 31 positions at risk for rescission. A list of these positions was provided to Technical Services at Central Management Services on May 22, 2009 with notice of the potential consequences.

In addition, after reporting last month about concerns over limited term 4d(3) exemptions being carried over without any extension requests, Executive Director Stralka conducted an audit of all such positions. This audit revealed that no current limited term 4d(3) exemptions were being utilized beyond their expiration dates. Executive Director Stralka sent notices to agency directors informing them of the expiration date of all current limited term 4d(3) exempt positions with a notice that the exemptions for these positions will expire on the previously established date without further action by or notice from the Commission.

V. CLASS SPECIFICATIONS

The following class titles were submitted for revision by the Director of Central Management Services:

Position Titles:

- A. Aircraft Pilot II
- B. Aircraft Pilot II – Dual Rating
- C. Juvenile Justice Youth & Family Specialist Supervisor
- D. Veterans Service Officer

Items A and B Classification Analysis: Assistant Executive Director Andrew Barris reported that Bill Lipsmire at Central Management Services confirmed that an agreement was reached under the collective bargaining agreement regarding the Aircraft Pilot changes.

Item C Classification Analysis: Assistant Executive Director Barris reported that Bill Lipsmire at Central Management Services confirmed there were seven supervisors and 55 specialists in the Juvenile Justice Youth and Family Specialist Supervisor class. Lipsmire also confirmed that the collective bargaining unit agreed to the changes to the class. Lipsmire noted that it was unique to have a requirement of experience limited to a lower title in a supervisor position. As is, it was too restrictive. If no one bid on the job from the specialist class, the supervisor position would remain unfilled. Chairman Kolker asked if this change was requested in order to place an already identified person in a position. Bill Lipsmire assured the Chairman that it was not.

Item D Classification Analysis: Assistant Executive Director Barris reported that he spoke to Bill Lipsmire at Central Management Services to confirm that the last time the Commission addressed the Veterans Service Officer class specification was in March 2006 at which the “time of hostilities” deadline for the class was set at December 31, 2005. Then, and now, the Commission indicated that it did not want the definition of “time of hostilities” to be an indefinite time period. Lipsmire confirmed that the bargaining unit agreed to the December 31, 2008 cut off date as the “time of hostilities.”

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 TO APPROVE THE REVISION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE JULY 1, 2009.

- A: Aircraft Pilot II
- B: Aircraft Pilot II – Dual Rating
- C: Juvenile Justice Youth & Family Specialist Supervisor
- D: Veterans Service Officer

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IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON		DALIANIS	YES
BUKRABA	YES		

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 12:00 p.m.

PRESENT

Chris Kolker, Chairman (via telephone); Raymond W. Ewell, Betty A. Bukraba and Ares G. Dalianis, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director (via telephone); and Richard DiDomenico, Illinois Department of Financial and Professional Regulation.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e. emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	4/30/09	5/31/09	5/31/08
Aging	1	1	0
Agriculture	0	0	2
Arts Council	0	0	1
Central Management Services	2	1	6
Children and Family Services	9	12	12
Criminal Justice Authority	1	1	0
Employment Security	3	4	2
Financial and Professional Regulation	0	0	1
Healthcare and Family Services	17	16	15
Human Services	1	1	7
Law Enforcement Training Standards Board	1	1	0
Natural Resources	0	0	21
Property Tax Appeal Board	0	1	1
State Police	0	0	1
Transportation	3	3	10
Veteran's Affairs	2	1	1
Workers' Compensation Commission	1	1	0
Totals	41	43	80

IX. PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL

- **DISCHARGE**

DA-4-09

Employee	Leo Padzunas	Appeal Date	7/25/08
Agency	DHS	Decision Date	6/05/09
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Conduct unbecoming; violation of workplace violence policy	Recommended Decision	Charges are proven but warrant 90-day suspension.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT FOR THE REASONS SET FORTH IN THE RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE BEEN PROVEN BUT THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE DO NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION. THEREFORE, SAID PROVEN CHARGES WARRANT A 90-DAY SUSPENSION IN LIEU OF DISCHARGE. THE COMMISSION ALSO APPROVES THE DENIAL OF THE RESPONDENT'S MOTION TO DISMISS.

KOLKER	YES	EWELL	YES
PETERSON		DALIANIS	YES
BUKRABA	YES		

- **DISCHARGE**

DA-15-09

Employee	Jacqueline Gollay	Appeal Date	11/03/08
Agency	FPR	Decision Date	06/05/09
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Violation of disability leave; physician's statement indicated permanent and total disability for employment	Recommended Decision	Charges are not proven.

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY CHAIRMAN KOLKER, AND BY ROLL CALL VOTE OF 2-1, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE WRITTEN CHARGES FOR DISCHARGE HAVE NOT BEEN PROVEN. COMMISSIONER BUKRABA ABSTAINED.

KOLKER	YES	EWELL	NO
PETERSON		DALIANIS	YES
BUKRABA			

X. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

GT-34-09

Employee	David Puccetti	Appeal Date	4/24/09
Agency	DOT	Decision Date	5/19/09
Type	Geographic Transfer	ALJ	Andrew Barris
Allegation	Transferred from the Taylorville Yard to the Shelbyville Yard in violation of procedures	Recommended Decision	Dismissed; withdrawn (transfer was not approved).

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND BY ROLL CALL VOTE OF 4-0, THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION TO DISMISS THE APPEAL AS THE PARTIES FILED A STIPULATION TO DISMISS.

KOLKER	YES	EWELL	YES
PETERSON		DALIANIS	YES
BUKRABA	YES		

XI. REPORT ON THE TREATMENT OF PRIOR DISCIPLINARY INCIDENTS WHICH ARE THE SUBJECT OF PENDING GRIEVANCES

It was the consensus of the Commissioners that this matter be carried over until the July 17, 2009 meeting.

XII. REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO OPEN MEETINGS ACT

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 THAT AFTER REVIEW OF EXECUTIVE SESSION MINUTES PURSUANT TO THE OPEN MEETINGS ACT, THE NEED FOR CONFIDENTIALITY STILL EXISTS AS TO ALL THOSE MINUTES.

XIII. STAFF REPORT

Executive Director Daniel Stralka reported that:

- Mileage reimbursement will increase to \$0.55/mile effective July 1, 2009.
- The Comptroller has removed the requirement that social security numbers be on travel vouchers.
- Sandy Guppy participated in the Commission's data validation process for the new Illinois Transparency and Accountability Portal, commonly known as ITAP. This ITAP website provides citizens a single internet site to view a variety of expenditures made by state agencies as well as other fiscal information.
- Senate Bill 1333, which if passed would terminate the terms of virtually all members of State boards and commissions 90 days after becoming law, was approved by the House but was not called for a vote by the Senate. The Governor has indicated his support for the legislation if it passes the legislature. There was a brief discussion among the Commissioners as to its legislative progress.
- House Resolution 0140 was passed which calls for the Auditor General to conduct an audit of 4d(3) exempt positions between 2003 through 2008 to determine if the granting of the exemptions was consistent with state law and rules. An entrance meeting with representatives of the Auditor General has been scheduled for July 1. There was a brief discussion among the Commissioners as to the substance of this resolution.
- The State has yet to pass a budget for fiscal year 2010. Sandy Guppy has been providing the Office of Management and Budget with a variety of fiscal information as it was requested. There was a brief discussion among the Commissioners as to the fiscal year 2010 budget process.

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XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on Friday, July 17, 2009 at 11:00 a.m. in the Commission's Chicago office.

XV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 12:15 P.M.